

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 19-58083

MATHEW ANDREWS, JR.,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING DEBTOR'S MOTION
TO CONVERT CASE TO CHAPTER 13**

This case is before the Court on the Debtor's motion entitled "Debtor's Motion to Reconvert Chapter 7 Case to Chapter 13," filed on February 24, 2020 (Docket # 31, the "Motion"). On March 23, 2020, the Debtor filed a Certificate of No Response, indicating that no objections to the Motion had been filed. But the Court cannot grant the Motion, for the following reasons.

The Debtor filed a voluntary petition for relief under Chapter 13 on December 30, 2019. On January 13, 2020, the Debtor voluntarily converted the case from Chapter 13 to Chapter 7 (Docket # 10). The Debtor now seeks an order converting the Chapter 7 case back to Chapter 13. The Court may not allow this requested conversion, because there was previously a conversion under 11 U.S.C. § 1307(a)¹ of the Debtor's Chapter 13 case to Chapter 7.

Section 706(a) of the Bankruptcy Code provides, in relevant part: "The debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, *if the case has not been converted under section 1112, 1208, or 1307 of this title.*" 11 U.S.C. § 706(a) (italics added). The Debtor does not have a right to voluntarily convert the case to

¹ Section 1307(a) of the Bankruptcy Code provides: "The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable." 11 U.S.C. § 1307(a).

Chapter 13, because the exception in § 706(a) applies. As many cases have held, under these circumstances, the Court does not have authority under any provision of the Bankruptcy Code to convert a Chapter 7 case back to Chapter 13 on the Debtor's request.² See, e.g., *In re Muth*, 378 B.R. 302, 303-04 (Bankr. D. Colo. 2007) (holding that under § 706(a), a debtor has a one-time conversion right which is "lost once it is exercised" and concluding that the debtors' previous conversion of their case from Chapter 13 to Chapter 7 prevented them from reconverting their case to Chapter 13); *In re Baker*, 289 B.R. 764, 769-70 (Bankr. M.D. Ala. 2003) (holding that under § 706(a), "a [d]ebtor loses his right to convert his case to a case under Chapter 13 if the case previously has been converted" and that "it is not in the [c]ourt's discretion to allow reconversion"); *In re Banks*, 252 B.R. 399, 402-03 (Bankr. E.D. Mich. 2000) (holding that the debtor "[h]aving once converted her case from chapter 13 to chapter 7 . . . [was] prohibited by 11 U.S.C. § 706(a)" from re-converting her case back to chapter 13, and that the bankruptcy court did not have discretion to allow such a conversion); *In re Hardin*, 301 B.R. 298, 299–300 (Bankr. C.D. Ill. 2003) ("This Court agrees with the recent opinions in *Baker* and *Banks*. The language of Section 706(a) gives debtors a right to convert only if the case has not previously been converted."); *In re McLawhorn*, No. 13-00167-8-RDD, 2014 WL 4948120, at *2 (Bankr. E.D.N.C. 2014) (holding that the language of § 706(a) clearly and unambiguously prohibits reconversion of a case once it has already been converted, and that therefore, "[b]ecause the [d]ebtor previously exercised her right to convert from Chapter 13 to Chapter 7, she no longer ha[d] the option of re-converting back to Chapter 13").

Accordingly,

² While there are cases holding otherwise, this Court finds the cases cited in this Order to be more persuasive, and agrees with them.

IT IS ORDERED that the Motion is denied.

Signed on March 27, 2020



/s/ Thomas J. Tucker

**Thomas J. Tucker
United States Bankruptcy Judge**